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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/976,312	10/11/2001	Yoshinori Kumasaka	SHC0151	1877

7590 09/26/2003  
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EXAMINER

ANDERSON, CATHARINE L

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 09/26/2003

11

Please find below and/or attached an Office communication concerning this application or proceeding.

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# Office Action Summary

Application No.

09/976,312

Applicant(s)

KUMASAKA ET AL.

Examiner

C. Lynne Anderson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other:

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 23 July 2003 has been entered.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Nishikawa et al. (5,591,155).

Nishikawa discloses elastically stretchable disposable pants, as shown in figures 1 and 6, comprising a pair of elastically stretchable sheet members 10, a front waist region 36a, a rear waist region 36b, a waist opening and a pair of leg openings defined by bonding together the front and rear waist regions 36a and 36b. Substantially inelastic guide zones 52, as shown in figure 5, are provided between the central longitudinal axis and each of the side edges and have upper terminal ends which terminate near the waist opening and lower terminal ends that are spaced apart from

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the leg openings. The inelastic guide zones 52 prevent stretching along a direction parallel to the central longitudinal axis. The guide zone 52 is disclosed in line 8 of the abstract as being inelastic.

With respect to claim 2, the elastically stretchable sheet members 10 comprise layers of elastically stretchable fibrous nonwoven fabric, as disclosed in column 3, lines 49-59. The guide zones 52 comprise portions of the nonwoven fabric that are molten and solidified, as disclosed in column 8, lines 5-9.

With respect to claim 4, a pad member comprising a liquid-pervious topsheet 33, a liquid-impervious backsheet 32, and a liquid absorbent core 31 is attached to an inner surface of the pants, as disclosed in column 5, lines 35-40, and shown in figure 6.

With respect to claim 8, the upper terminal ends of the inelastic guide zones 52 may be defined as being spaced apart from the waist opening.

Claims 1, 3, 4, and 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Van Gompel et al. (4,940,464).

Van Gompel discloses elastically stretchable disposable pants, as shown in figure 1, comprising a pair of elastically stretchable sheet members 24, a front waist region 42, a rear waist region 4, a waist opening 10 and a pair of leg openings 12, 14 defined by bonding together the front and rear waist regions 42, 44. Substantially inelastic guide zones 28, as shown in figure 5, are provided between the central longitudinal axis and each of the side edges 50, 56, 62, 68 and have upper terminal ends which terminate near the waist opening 10 and lower terminal ends that are spaced apart from the leg openings 12, 14. The inelastic guide zones 28 prevent

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stretching along a direction parallel to the central longitudinal axis. The guide zone 28 is disclosed as being substantially inelastic in column 3, lines 24-25.

With respect to claim 3, the elastically stretchable sheet members 24 comprises layers of elastically stretchable fibrous nonwoven fabric, as disclosed in column 4, lines 31-50, and the guide zones 28 comprise inelastic strips of sheet material that are bonded to the nonwoven fabric along seam 38, as shown in figure 1.

With respect to claim 4, the pants further comprise a pad member comprising a liquid pervious topsheet 88, a liquid impervious backsheet 90, and a liquid absorbent core 92.

With respect to claim 6, the guide zones 28 are located aside toward the side edge portions 50, 56, 62, 68 of the front and rear waist regions 42, 44, as shown in figure 5.

With respect to claim 7, the guide zones 28 are located in a vicinity of the pad member, as shown in figure 5.

With respect to claim 8, the upper terminal ends of the inelastic guide zones 28 may be defined as being spaced apart from the waist opening 10.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nishikawa et al. (5,591,155) in view of Proxmire (4,936,840).

Nishikawa discloses all aspects of the claimed invention with the exception of the backsheet comprising the pair of elastically stretchable sheet members. Proxmire teaches the use of an elastically stretchable sheet member as a liquid-impermeable backsheet, as disclosed in column 5, lines 42-43. The elastically stretchable backsheet gives the pants a close and secure fit, as disclosed in column 5, lines 55-60. It would therefore be obvious to one of ordinary skill in the art at the time of invention to construct the backsheet of Nishikawa from an elastically stretchable sheet member, as taught by Proxmire, to give the pants a close and secure fit.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Van Gompel et al. (4,940,464) in view of Proxmire (4,936,840).

Van Gompel discloses all aspects of the claimed invention with the exception of the backsheet comprising the pair of elastically stretchable sheet members. Proxmire teaches the use of an elastically stretchable sheet member as a liquid-impermeable backsheet, as disclosed in column 5, lines 42-43. The elastically stretchable backsheet gives the pants a close and secure fit, as disclosed in column 5, lines 55-60. It would therefore be obvious to one of ordinary skill in the art at the time of invention to construct the backsheet of Van Gompel from an elastically stretchable sheet member, as taught by Proxmire, to give the pants a close and secure fit.

***Response to Arguments***

Applicant's arguments filed 23 July 2003 have been fully considered but they are not persuasive. Both Nishikawa et al. (5,591,155) and Van Gompel et al. (4,940,464) disclose all aspects of the claimed invention. The claimed invention discloses inelastic guide zones, and the inelastic portions of Nishikawa and Van Gompel may be defined as a whole or in part as inelastic guide zones. The inelastic members of Nishikawa and Van Gompel may therefore be described as defining inelastic guide zones having upper terminal ends which terminate near the waist-opening and lower terminal ends that are spaced apart from the leg-openings.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (703) 306-5716. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703) 308-1957. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 306-4520 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

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cla

September 23, 2003



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SUPERVISORY PATENT EXAMINER  
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